IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4064 OF 2007.

Sitabai Dattaram Gawade & ors. ... Petitioners.
Versus.
Balkrishna Narayan Gawade & anr. ... Respondents.

Shri A.S.Khandeparkar i/by M/s.Khandeparkar & Associates for the Petitioners.

Shri A.G.Kundekar for the Respondents Nos.1 and 2.

CORAM : ABHAY S.OKA, J.

DATED : 23rd October, 2007.

P.C.:

1. Heard the learned Counsel appearing for the parties. The learned Counsel appearing for the 1st and 2nd Respondents submitted that in view of the decision of the Division Bench of this Court, now a remedy of preferring a Second Revision Application is available to the Petitioner for challenging the order dated 19th August 2003 passed by the Additional Commissioner, Konkan Division, Bombay, which is the subject matter of challenge in this writ petition.

2. The learned Counsel for the petitioner, therefore seeks permission to withdraw this writ petition with liberty to file a Revision Application for challenging the impugned order. He, however, submits that the Revision Application will now be barred by limitation.

3. This petition was filed by the petitioner on 27th April 2007. On 4th July 2007 this Court issued notice before admission to the Respondent and the petition remained pending in this Court till today. It is obvious that as and when the petitioner files an application for condonation of delay before the Revisional Authority, the fact that the petitioner was prosecuting this Writ petition from 27th April 2007 in a bonafide manner is bound to be taken into consideration by the Revisional Authority.

4. Subject what is stated above, writ petition is dismissed as withdrawn with liberty as prayed. All contentions of the parties on merits are kept open.

Judge.